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05/22/02

DATE: February 1, 2000

TO: Patent Examining Group Directors

FROM: Stephen G. Kunin  
Deputy Assistant Commissioner  
for Patent Policy and Projects

SUBJECT: Hyperlinks and other forms of browser-executable code in the text of patent applications.

It has been brought to my attention that applicants are embedding hyperlinks and other forms of browser-executable code into the text of their patent applications. An example of a hyperlink or a browser-executable code is a URL placed between these symbols "< >". When a patent application with embedded hyperlinks and/or other forms of browser-executable code issue as a patent and the patent document is placed on the PTO web page, when the patent document is retrieved and viewed via a web browser, the URL placed between < > is interpreted as valid HTML code and it becomes a live web link. When a user clicks on the link with a mouse, the user will be transferred to another web page identified by the URL, if it exists, which could be a commercial web site. PTO policy does not permit the PTO to link to any commercial sites since the PTO exercises no control over the organization, views or accuracy of the information contained on these outside sites.

Effective immediately, examiners must review patent applications to make certain that hyperlinks and other forms of browser-executable code, especially commercial site URLs, are not included in a patent application. If hyperlinks and/or other forms of browser-executable code are embedded in the text of the patent application, examiners should object to the specification and indicate to applicants that the embedded hyperlinks and/or other forms of browser-executable code are impermissible and require deletion. The attempt to incorporate subject matter into the patent application by reference to a hyperlink and/or other forms of browser-executable code is considered to be an improper incorporation by reference. See MPEP 608.01(p), paragraph I regarding incorporation by reference.

MPEP § 608+ will be amended in the upcoming revision to include the subject matter of this notice. It is also anticipated that 37 CFR 1.52 will be amended to prohibit the

inclusion of hyperlinks and/or other forms of browser-executable code in patent specifications.

Any questions concerning this notice should be directed to Magdalen Greenlief, Office of the Deputy Assistant Commissioner for Patent Policy and Projects at 305-8813.